

C 98 ~~least one hinged contoured side panel section adjacent each of said openings in said storage boxes.~~

Remarks

The Examiner has refused entry of the previously submitted proposed drawing corrections solely on the basis that the proposed corrections did not overcome each and every objection raised by the Examiner. Applicants submitted a copy of sections of the "Guide for the Preparation of Patent Drawings" published by the Patent and Trademark Office which clearly illustrates that the same component shown in different figures may have the same reference numeral, and that the use of Figs. 1A, 1B, 1C, etc. is proper. The Examiner has apparently ignored the "Guide" and has repeated the same objections, and such action on the part of the Examiner is deemed to be improper.

Further, the Examiner's attention is directed to MPEP 608.02 (P) (4) which states:

"The same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character" (underlining added).

Thus, the Examiner's objections to Figures 9-12, 13-14 and 15-16 are in direct contradiction with the above-quoted statement from the MPEP.

Oath/Declaration

The declaration is held to be defective because it does not reference grandparent application S.N. 08/506,893. Apparently the

Examiner has overlooked the fact that the instant application is a continuation of Application Serial No. 08/910,516 filed August 2, 1997, and thus carries the declaration of its parent case. A copy of the Declaration signed 3/27/98 in the parent application (S.N. 08/910,516) is enclosed. Note that the enclosed Declaration does identify both prior applications S.N. 08/685,678 and S.N. 08/506,893. Accordingly, it is submitted that the Examiner is in error and the objection to the Declaration in the instant application should be withdrawn.

Double Patenting

Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 11 of copending Application No. 08/910,516. Claim 11 depends from Claim 10 which depends from Claim 1, and thus includes the subject matter of the parent claims. Since Claim 11 of S.N. 08/910,516 has been allowed and the parent Claims 1 and 10 of Claim 11 of the instant application have been rejected on prior art, it appears that the entire claimed subject material of allowed Claim 11 of S.N. 08/910,516 differs more than just a "mere variation of non-patentably distinct features of the claims" as stated by the Examiner. Claims must be read and compared in their full context and not by isolated features within the claims. Thus, comparing the full context of Claims 11 of the two applications will clearly illustrate patentably distinct features therebetween. Accordingly, it is submitted that

this ground of rejection of Claim 11 is improper and should be withdrawn.

The 35 USC 103 Rejections

Claims 1, 4, 5, 7 and 24-28 are rejected under 35 USC 103(a) as unpatentable over Stiles in view of Smith. The Examiner states that:

"Stiles clearly discloses almost all of the claimed features of the hidden system for a vehicle...".

This statement is deemed to constitute an extreme exaggeration of the actual teachings of Stiles. A full reading of Stiles will show that the only teaching therein that has any bearing on the claimed invention is found on page 2, Col. 2, lines 8-15, as referenced by the Examiner. Lines 8-10 state:

"It will be understood that certain of the panel plates (22) may be similarly hinged to afford access to compartment spaces" (underlining added).

Now, what does "similarly hinged" mean? The only reasonable meaning is that relating to the hinging of doors 25 by exposed hinges 26 (see Fig. 1). Thus, if panel 22 of Fig. 1 was hinged, where would that hinge be located? Probably adjacent the hinge 26 for rear door 25, and it would be an exposed hinge like hinges 26. Then how would one open hinged panel 22? There is no teaching in Stiles to answer that question, but probably a door handle would be used as used for doors 25. What about the "compartment spaces" as referenced in Col. 2,

lines 8-10 of Stiles? There is no teaching found anywhere in Stiles, other than in Col. 2, lines 10-15, that will answer that question. The "compartment spaces" may extend across the width of the vehicle; who knows.

Now compare the actual, not speculated, teachings found in Stiles with the "hidden storage system" set forth in Claim 1, for example. Even if panels 22 were hinged, they would be "similarly hinged" like doors 25 are hinged by exposed hinges 26, and would be provided with handles, such as those on doors 25. Does such constitute a "hidden storage"? Obviously not because anyone can readily see the hinges 26 and door handles. The addition of exposed hinges and an exposed handle to panel 22 would certainly alter the external appearance of the vehicle as shown in Fig. 1 of Stiles. While Stiles teaches "a rear compartment" and "carrier compartments", do such teach the claimed "storage box" of Claim 1?

Nowhere in Stiles is there found any teaching of a "latch mechanism" for panel 22 if hinged, nor is there a teaching of a "lock means" for the "latch mechanism". The Examiner cites Smith to provide such a teaching since Smith is directed to a "deck lid latch" including a "lock cylinder 12 having a key slot" which is readily seen from an external view of the "vehicle deck lid" 10. So where is the "hidden storage" feature of Claim 1? Where in either Stiles or Smith is there found the structural arrangement of the latch mechanism of Claim 4? Smith teaches latching a "deck lid" not a

"side panel" of a vehicle. Trunks (deck lids) of a vehicle are not located on the sides of a vehicle, but in the rear or front thereof. Is not the Examiner "stretching" the prior art? Nowhere in Stiles or Smith is there found at least one "adjustable shelf", "slideable shelf" or "moveable shelf" as recited in Claim 24.

Since Stiles teaches a latch mechanism (door handle) which is exposed to view, and Smith teaches a lock means (key slot 14) that is exposed to view, the Examiner' statement that:

"the latch mechanism and the lock means are hidden from view"

is clearly in error. Thus, even with the Examiner's extremely broad, if not exaggerated interpretation of the teachings of Stiles, there is still no teaching of a "hidden storage" in a vehicle since at the very least the "lock means" of Smith is visible from an external view. Accordingly, it is submitted that the rejection of Claims 1, 4, 5, 7 and 24, particularly as now amended, on Stiles in view of Smith under 35 USC 103, is improper and should be withdrawn.

Claims 2, 3 and 31 are rejected under 35 USC 103(a) as unpatentable over Stiles in view of Smith, and further in view of Sisler. Claims 2 and 3 depend from Claim 1, but Claim 31 depends from Claim 25 and the references Stiles in view of Smith have not been applied against Claim 25. Claim 2 sets forth "wheel wells" and that the "storage box extends over" a wheel well and "extends forward and rearward therefrom", while Claim 3 sets forth that the "storage

box is constructed to extend along at least a section of a floor of said vehicle. Claim 31 sets forth that the "storage box extends forward, rearward, and over said wheel well or extends along a horizontal line above said wheel well".

Here the Examiner is attempting to modify the passenger car of Stiles with teachings from a pickup bed of Sisler. Since parent Claim 25 of Claim 31 has not been included in the rejection, but since Claim 31 includes all the limitations of parent Claim 25, such will be discussed hereinafter. Sisler teaches a pickup bed having therein three (3) containers 21, 22 and 23 on each side thereof. As shown, container 21 does extend over the wheel well 13 and slightly forward and slightly rearward thereof, and on a section of the floor 16. Now if a storage box of the type shown at 21 in the pickup bed of Sisler was incorporated into the passenger car of Stiles, the rear seat of Stiles would be rendered inoperable for its intended use. In addition, the side panel 22 of Stiles would have to be relocated over the wheel well. Further, the storage box 21 of Sisler is not accessible through the side panel 11 and is constructed to be "filled with a particulate weight material such as gravel for increased wheel traction" (see the abstract of Sisler). Thus, if the side panel 11 was hinged and the container 21 accessible therethrough, the "material" would be drained therefrom thus rendering it inoperable for its intended purpose.

As to Claim 31, parent Claim 25 sets forth "an enclosure" and

"at least a rear door", with a "storage box" secured to "one side of said enclosure". Now to apply these features to Stiles, the "enclosure" would constitute the area behind the two doors 25, and the "rear door" would thus be the trunk 29 of Stiles. To meet the terms of Claim 25, the "storage box" is located on "one side of said enclosure" and thus would be located behind doors 25 of Stiles, thus rendering the passenger car of Stiles inoperable for its intended use. With a storage box adjacent the doors, how would one enter the car? Further, if the features of Claim 31 were then added to the storage box as supposedly taught by Sisler, the wheel well of Stiles would be moved to a location intermediate doors 25 of Stiles, clearly rendering the vehicle of Stiles inoperable for its intended use.

It is clearly established by patent case law that it is impermissible under 35 USC 103 to modify a device in such a manner as to render it inoperable for its intended purpose. See Ex parte Weber, 154 USPQ 491 (Bd. Appl. 1967). Also, it is submitted that obviousness of the proposed combination of references is based on Applicants disclosure and not on the teachings of the applied references. Such is improper under 35 USC 103. See Ex parte Weber, supra. This ground of rejection is based on hindsight in view of Applicants' disclosure and such is also improper under 35 USC 103. See Ex parte Giles, 228 USPQ 866 (Bd. Appl. 1985).

In view of the foregoing, it is submitted that the rejection of Claims 2, 3 and 31 under 35 USC 103 on Stiles in view of Smith and

Sisler is improper and should be withdrawn.

Claims 10, 12 and 30 are rejected under 35 USC 103(a) as unpatentable over Stiles in view of Smith and further in view of Ogilvie, 1966. Claim 30 depends from Claim 25 and, as pointed out above, Claim 25 was not included in the rejection on Stiles in view of Smith. The Examiner states:

"Stiles further lacks a strut assembly and a plurality of hinged sections for each box".

In an effort to provide these teachings, Ogilvie 1966 has been applied. Ogilvie is directed to a utility type vehicle bed having a hinged top "closure cover 96" with "an outer panel 100", which extends along the entire length of the bed, and two doors 48 which are hinged to open sideways. The doors 48 cannot be opened until the cover 96 is raised. The cover 96 is retained open by a "foldable support" 110 (see Figs. 3 and 4), which clearly is not a "strut assembly" as known in the art. The doors 48 are retained closed by a "latch mechanism 50" that:

"includes an upstanding portion 118 that may be manipulated upon the opening of the corresponding closure cover 96, to retract the latch mechanism 50 and thus enable the doors 48 to be opened."

The closure cover 96 is retained closed by an unnumbered latch mechanism located in the central section of panel 100 and directly above the wheel well (see Figs. 1 and 2). Only the storage box under

closure 96 extends over the wheel well 34 and forwardly and rearwardly therefrom.

In Ogilvie there are three (3) separate storage boxes, not "a storage box" as stated by the Examiner, and thus do not teach the features of either Claim 12 or Claim 30, which set forth that opening either of the hinged sections expose the interior of the same storage box.

It is abundantly clear from a reading of Ogilvie that the description thereof by the Examiner on page 9 of the Office Action is incorrect. While a "strut assembly" may possibly be added to the panel 22 of Stiles, such a "strut assembly" is not taught by Ogilvie. Now the Examiner proposes to convert the side of the passenger car of Stiles into a vehicle having a storage box on each side thereof with "a plurality of hinged sections for each box, as taught by Ogilvie". As pointed out above, Ogilvie does not teach a storage box with "a plurality of hinged sections" as stated by the Examiner, but only teaches a single hinged section for each box. Obviously, the Examiner is confusing the teachings of Ogilvie with those of Applicants, which teach and claim the "plurality" of hinged covers for "each" storage box.

Here is a clear case of hindsight reconstruction by the Examiner, but the reference relied upon by the Examiner fails to teach the claimed features recited in the claims. Thus, this combination of references fail to teach or suggest the features

recited in Claims 10, 12 and 30, and thus fail to support the rejection thereof under 35 USC 103, and therefore this ground of rejection should be withdrawn.

Claims 14, 30 and 34 are rejected under 35 USC 103 as unpatentable over Stiles in view of Smith and further in view of LeVee. Claims 30 and 34 depend from Claim 25 which, as pointed out above, has not been included in the rejection of Stiles in view of Smith.

The Examiner states:

"Stiles further lacks a drain/air relief valve assembly in a bottom area of each box and a plurality of horizontally hinged sections for each box".

Here again the Examiner proposes to modify a passenger car with teaching from a utility-type vehicle bed. LeVee teaches a utility bed having a storage box with three hinged sections 24, 25 and 26 which are hinged horizontally as shown in Fig. 2, and each hinged section includes an exposed lock mechanism 29. LeVee discloses a plurality of vents 60 across the rear of the bed and teaches powered vent means "to circulate air through the structure 16" which includes "blowers 56, 58, located on the forward ends of storage areas 18, 20, respectively" and does include vents 60 "located at the rear areas 18 and 20 and also in door 40b" and the "vents are located slightly above the level of bed 30" (see Col. 4, lines 15-28). The actual teachings of LeVee clearly fail to support the Examiner's statement

that there are:

"drain/air relief valve assemblies 60 in a bottom area of the boxes."

One would be hard pressed to call an air circulation system, as taught by LeVee, a "drain/air relief valve assemblies" as stated by the Examiner. Also, since the vents 60 are located "above the level of bed 30", how does this teach a "drain/air valve assembly located in the bottom of the storage box", as claimed. It is obvious that there is no intent found in LeVee to provide a drain but only an air circulation system "to prevent condensation of moisture". The Examiner is called upon to explain how it would be obvious to one skilled in the art to modify the passenger car of Stiles to provide same with "a plurality of horizontally hinged sections" as stated on page 10 of the Office Action. Such would require a reconstruction of the passenger car of Stiles. Further, where does the reference suggest to provide Stiles with a storage box having a plurality of hinged sections other than from Applicants' disclosure?

To reconstruct the vehicle of Stiles as proposed by the Examiner would render it inoperable for its intended purpose, and as set forth in Ex parte Weber, Supra, such reconstruction is impermissible under 35 USC 103. Since LeVee fails to teach the claimed "drain/air valve assembly", and one skilled in the art is not taught how to modify the passenger car of Stiles to incorporate a storage box over the wheel well and provide some with a plurality of

hinged sections, it is submitted that the rejection under 35 USC 103 of Claims 14, 30, and 34 by this combination of references is not supported by the teachings of these references. Further, these references obviously fail to teach the features of Claim 25 on which Claims 30 and 34 depend, as discussed above with respect to the rejection of Claim 31. Thus, this ground of rejection is improper and should be withdrawn.

Claims 31-33 are rejected under 35 USC 103(a) as being unpatentable over Stiles in view of Smith, taken further in view of LeVee and Sisler. The Examiner states:

"Stiles further teaches that the hinged section is located entirely above the wheel well, extending forwardly, rearwardly, and over".

Here again the Examiner proposes to combine a passenger car (Stiles) with a utility type bed (LeVee) and a conventional pickup bed (Sisler). It is submitted that these references constitute nonanalogous art. While both LeVee and Sisler teach a storage box which extends over, forward of and rearward of the wheel well, to incorporate such in the passenger car of Stiles would require a reconstruction of the car and render it inoperable for its intended purpose. How can one enter the car of Stiles with storage boxes across the doors? Further, why would one skilled in the art want to reconstruct the Stiles vehicle as proposed by the Examiner? Further, if the storage box of Sisler was provided with "side access to the interior" the purpose of the storage box would be destroyed. Where is the feature of Claim 32 found in Sisler or LeVee? Note also that

Claims 31-33 depend from Claim 25 and, as discussed above, Claim 25 recites "an enclosure" with "at least a rear door", and such is clearly not taught by any of the four references here applied. Thus, it is submitted that this ground of rejection is improper because to so modify Stiles would destroy the intended purpose thereof. Thus, the rejection of Claims 31-33 under 35 USC 10 on this combination of references is improper and should be withdrawn.

Claims 1-5, 7, 10, 12, 24-28, 30, 31-33 and 35-42 are rejected under 35 USC 103(a) as being unpatentable over Sisler in view of Stiles and Ogilvie, 1966. While the Examiner has outlined on page 12 of the Office Action features taught by Sisler, it should be noted that Sisler teaches 3 separate containers 21, 22 and 23 on each side of the bed 16. Only the containers 21 extend over the wheel wells 13 and 14, while containers 22 are located forward of the wheel wells and containers 23 are located rearward of the wheel wells. Also, it should be noted that there is no means for removing the particulate material from the containers 21. The Examiner recognizes that Sisler "lacks, for each box":

"sections of one of the enclosure side panels being hinged for outward movement to open positions, a hidden latch mechanism, lock means, and a strut assembly".

The Examiner's description of Stiles on page 12 of the Office Action is not accurate with what Stiles actually teaches and thus includes mere speculation on the part of the Examiner. The only

portion of Stiles that can be reasonably' considered as relating to "a hidden storage system,for a vehicle" is found on page 2, Col. 2, lines 8-15, where it states that:

"the panel plates (22) may be similarly hinged to afford access to compartment spaces" (underlining added),

and then sets forth that the "compartment spaces" comprise a "rear compartment" or "other carrier compartments". Beyond the statements of Col. 2, lines 8-15 of Stiles, all interpretations are only that.

As shown in Fig. 1, panel 22 partially covers the wheel well and extends rearward therefrom. Also, as set forth in Col. 2, lines 8-10, the panels 22 would be "similarly hinged" and thus would include exposed hinges 26 as seen in doors 25 in Fig. 1. No latch or lock means for panels 22 are disclosed, but would probably be similar to the door handles for doors 25. Now if panel 22 was provided with one or more hinges and a lock/latch mechanism, it would certainly change the external appearance of the vehicle, and thus would defeat the claimed "hidden storage" feature since hinges and a handle on panel 22 would indicate some type of storage therebehind.

The Examiner's description of Ogilvie, 1966 on page 13 of the Office Action is partially accurate. Ogilvie is directed to a utility type bed and not a conventional pickup bed, such as taught by Sisler. Ogilvie does not teach both "at least one rear door" and a "tailgate section, as stated by the Examiner, but only the tailgate 64. Also, the storage system of Ogilvie comprises three (3) boxes on

each side, comprising compartments 28, 30 and 32 covered by closure 96 and doors 48, and thus does not comprise "a storage box...extending along a floor section thereof and covering a wheel well forwardly and rearwardly" as stated by the Examiner.

Compartments 30 and 32 are located forward of and rearward of, respectively, the wheel well 34, and only compartment 28 extends over the wheel well 34. Compartment 28 does extend "entirely above the wheel well". While each of compartments 28, 30 and 32 have a hinged side pane (closure 96 ad doors 48), doors 48 cannot be opened until closure 96 is raised. Doors 48 are hinged vertically while closure 96 is hinged horizontally. The latch and lock means of Ogilvie are not hidden, with the latch/lock means for closure 96 being clearly exposed to an external view. The latch/lock means 50/118 for doors 48 is only hidden when closure 96 is closed. Ogilvie does not disclose "a strut assembly" since element 110 is "a foldable support", and it is widely recognized that "strut assemblies" are not foldable. The Examiner contends that it would be obvious to modify Sisler by hinging a section of side panels 11 and 12 so that the interior of the containers 21 would be exposed or covered, and to incorporate into the hinged sections "a hidden latch mechanism, lock means, and a strut assembly" in view of Stiles and Ogilvie. Now if the interior of containers 21 were exposed, the material contained therein would spill out and thus defeat the purpose of the containers, namely to increase "wheel traction", and rendering the

vehicle of Sisler inoperable for its intended purpose. Further, the lock/latch mechanism of Stiles and Ogilvie are not hidden. Such modification is improper under 35 USC, see Ex parte Weber, Supra. Thus, this ground of rejection is improper and should be withdrawn.

Claims 1-3, 5, 7, 12, 14, and 24-28, 30, 31-34, 35-39 and 42 are rejected under 35 USC 103 as being unpatentable over Sisler in view of Stiles and LeVee. The Examiner states that Sisler lacks:

"for each box, sections of one of the enclosure side panels being horizontally hinged for outward movement to open positions, a latch mechanism lock means, and a drain/air relief valve assembly".

The teachings of the references Sisler and Stiles have been discussed above and such is incorporated herein. The Examiner's description of LeVee, as set forth on pages 14 and 15 of the Office Action, is only partially accurate. LeVee does not teach both "at least one rear door" and a "tailgate" section, as stated by the Examiner. The storage box is mounted intermediate the "driver's side door" and the "tailgate" and not "intermediate the doors" as stated by the Examiner. The storage system of LeVee does not include a storage box which extends "entirely above the wheel well" as stated. LeVee also does not teach "drain/air relief valve assemblies 60 in a bottom area of the boxes" as stated. Applicants' above comments and description of the air circulation system 16 and the vents 60 of LeVee are incorporated herein.

The Examiner contends that it would be obvious to modify Sisler:

"to have, for each box, sections of one of the enclosure side panels being horizontally hinged for outward movement to open positions, a latch mechanism lock means, and drain/air relief valve assembly, as suggested and taught by Stiles and LeVee, because the hinged side panel sections would provide side access to the interior of the storage box".

Since the storage boxes 21, 22 and 23 of Sisler are closed containers located within side panels 11 and 12, hinging the side panels 11 or 12 would only expose the adjacent side surfaces of the containers and not the interior of the containers as claimed. Now if the adjacent side surfaces of the containers 21-23 were opened to expose the interior, all the materials therein would spill therefrom, rendering the containers inoperable for their intended use, namely to store materials to "increase wheel traction". Also, the latch/lock mechanisms of Stiles and LeVee are exposed to view, and thus destroy the hidden feature of the claimed storage system. In addition, one would be hard pressed to consider the air circulation system of LeVee as "a drain/air relief valve assemblies", particularly when the vents 60 are located above the floor level (see Col. 4, lines 27-28), and thus not located in the bottom area of the boxes as incorrectly held by the Examiner.

As pointed out above, it is improper to reconstruct a reference so that it becomes inoperable or its intended purpose (see Ex parte Weber, Supra). Here the Examiner has merely picked components from the various references in an effort to reject Applicants' claims without giving full consideration as to what the references taught or suggested as a whole. Such picking of components is also improper under 35 USC 103. See In re Shuman, 150 USPQ 54 (CCPA 1966), Fromson v. Advance Offset Plates, Inc., 217 USPQ 1137 (CAFC 1983); and In re Wesslau, 747 USPQ 391 (CCPA 1965). Here it is submitted that the proposed modification of Sisler is based on hindsight, having had the advantage of Applicants' disclosure. Such is improper. See In re Van Wanderham et al, 154 USPQ 20 (CCPA 1967), and Ex parte Giles, 228 USPQ 866 (Bd. Appl. 1985). On page 26 of the Office Action, the Examiner states that:

"any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning"

and cites In re McLaughlin, 170 USPQ 209 (CCPA 1971). However, McLaughlin states:

"Test for combining references is not what individual references themselves suggest but rather what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art".

Also, as stated by the Examiner, McLaughlin discusses "judgment on

obviousness" but such judgment to support reconstruction should "not include knowledge gleaned from Applicant's disclosure". Here the suggestion or teaching of providing a hidden storage system is found only in Applicant's disclosure.

The present invention has reached commercial success, as evidenced by the enclosed brochure entitled "Work & Play with Hide-N-Side". As stated in In re McLaughlin, cited by the Examiner, "obviousness drawn from prior art disclosures is only *prima facie* justification for drawing ultimate legal conclusion that claimed invention is unpatentable under 35 USC 103". Then that decision states:

"it is imperative that such secondary considerations as commercial success and adaptation by competitor also be evaluated in determining final validity of that legal conclusion".

Not only has the claimed invention obtained commercial success, it has been adapted by a competitor. Thus, In re McLaughlin is directly on point to support Applicants' position that the invention is not obvious under 35 USC 103.

In view of the foregoing, it is submitted that the rejection of Claims 1-3, 5, 7, 12, 14, 24-28, 30-39 and 42 under 35 USC 103 on Sisler in view of Stiles and LeVee is improper and should be withdrawn.

Objection To The Specification

On pages 15 and 16 of the Office Action the Examiner raises several objections to the specification. The Examiner objects to the use of reference numerals 103 and 104 in more than one figure even though they reference the exact same component. This objection is clearly contrary to MPEP 608.02(p)(4) which states:

"The same part of an invention appearing in more than one view of the drawing must always be designated by the same reference character, and the same reference character must never be used to designate different parts." (underlining added)

In Figures 9-12, the storage box 103 having a wheel well 104 are the same part of the invention "appearing in more than one view", and thus the Examiner's objection is improper. The similar objections to Figs. 12, 14 and 16 are deemed improper for the same reason. As to the objections to the reference numeral "100" and the "bed 121", such have been corrected.

The specification is objected to because:

"The twenty figures shown in the drawings are not identified by the consecutive Arabic numerals 1 through 20".

The Examiner objects to the use of "Figure 8A" and "Figure 8B" as not being "consecutive Arabic numerals". Such is true in the strict

sense, but the use of the objected to numerals is clearly consistent with the enclosed sections of the "Guide for the Preparation of Patent Drawings", see Example 10 on Pages A-4-22 and A-4-23 which states and illustrates the use of Fig. 7A-7C and Fig. 8A-8C as being "Proper". Accordingly, the Examiner's position relative to Figures 8A and 8B is inconsistent with accepted Office practice, and thus the objection should be withdrawn.

The examiner objects to the specification because:

"Arrangement 300 (page 16, line 26) is not shown labeled Members 130' (page 20, line 25) are not shown labeled".

What does the Examiner mean by "not shown labeled"? Reference numeral "300" replaced "100'" in Figure 11 and on page 16, line 26 by the Amendment filed 9/21/98, but the Examiner refused to enter the proposed drawing correction and now objects to the numeral "300". By the prior Amendment filed 9/21/98, "130" on page 20, line 25, was changed to --130'--, so why is the Examiner objecting to "130'" in line 25 of page 20?

It is submitted that the objections which are deemed proper have been overcome by either the prior Amendment filed 9/21/98 or the above amendments, while other objections (the same reference numerals in different figures for the same components) are deemed improper as

pointed out above. Thus, the objections to the specification as set forth on pages 15 and 16 of this Office Action should be withdrawn.

Objections To The Drawings

On pages 17-19 of the Office Action, the Examiner has set forth several objections to the drawings and made statements which are deemed to be improper and incorrect. The Examiner states that the "proposed drawing corrections on September 21, 1998" has been disapproved" because:

"The proposed drawing corrections failed to overcome all of the objections to the drawings". (underlining added)

Then the Examiner states:

"Applicants failed to submit formal drawings as required".

It is submitted that the Examiner's refusal to accept the "proposed drawing corrections" filed September 21, 1998 only because the proposed corrections did not include changes "to overcome all of the objections" made by the Examiner is improper. The proposed corrections made each change required by the Examiner except those required changes which were inconsistent with current Office practice, MPEP 608.02(p)(4), and the "Guide for the Preparation of Patent Drawings", a copy of which was submitted with the proposed

drawing correction filed September 21, 1998. Since this Office Action is totally silent relative to the previously submitted "guide", it can only be assumed that the Examiner chose to ignore the "Guide" and reinstate the prior objections. Such action of the part of the Examiner is deemed to be improper, and only serve to impose a further burden on Applicants to have to resubmit the same proposed drawing changes.

Regarding the Examiner's requirement for the submittal of "formal drawings", it is well established that an applicant need not submit formal drawings until a Notice of Allowance has been received. Here, no claim has ever been allowed. Thus, the Examiner's requirement for formal drawings at this stage of the prosecution is clearly improper and should be withdrawn. Further, had Applicants submitted formal drawings, such would not have been entered since such would not have made each and every change wanted by the Examiner, and thus would have only served to impose a further improper and unjustified burden on Applicants.

The drawings are again objected to because of the "cross-sectional hatching in Fig. 19". This figure was corrected in the proposed drawing corrections filed September 21, 1998. Thus, this objection should be withdrawn.

The drawings are again objected to because the exact same component shown in different figures has the same reference numeral.

As pointed out above, this objection is in direct contradiction to MPTP 608.02(p)(4) and the "Guide" (see Page A-4-35 and A-4-49 of the "Guide" which shows the same reference numeral used for the same component in two different figures. Thus, the objections to Figs. 10, 12, 14 and 16 are improper. Reference numeral "100" in Figure 11 was changed to --300-- by the above-referenced proposed drawing corrections, which the Examiner refused to approve and then repeats the same objection. Such action by the Examiner is deemed improper.

The drawings are objected to because components 106', 153 and 208 are "not shown labeled". It is assumed that "labeled" means "numbered". The above-referenced proposed drawing correction corrected each of these objections, but the Examiner chose not to approve the proposed corrections and then repeats the same objections. Is this a proper and reasonable examination practice?

The drawings are objected to because the twenty figures have not been identified by "consecutive Arabic numerals 1 through 20". This objection is because of Figures 8A and 8B which illustrate the rear ends of two similar but different vehicles. This objection flies in the face of long established practice in the Office and is clearly in contradiction with the enclosed sections of the previously submitted and above-referenced "Guide for the Preparation of Patent Drawings" (see Figs. 7A-7C and Fig. 8A-8C on page A-4-23 of the "Guide"). Accordingly, this objection should be withdrawn.

The drawings are objected to because the "bulkhead section" of Claim 28, line 2 is not shown. The "bulkhead section" of the pickup bed is shown in Figure 2, with the numeral 12 positioned thereon. Also, in Figure 4, the "bulkhead section" of bed 12 is shown directly behind cab 11. All pickup beds have a "bulkhead section", and such is shown in Applicants' drawings. Thus, this objection should be withdrawn.

Page page 19 of the Office Action, the Examiner states:

"New FORMAL DRAWINGS are required in response to this Office action".

Since no claim has been allowed, formal drawings are not required. Further, until an agreement as to what objections raised by the Examiner do actually require drawing changes, to submit formal drawings at this stage only serves to impose an unnecessary burden on Applicants. Such improper requirements by the Examiner smacks of harassment of Applicants, and such should be withdrawn.

Response To Arguments

Pages 20-28 of the Office Action constitutes the Examiner's response to Applicants' arguments set forth in the Amendment filed September 21, 1998. No further comment by Applicants is deemed necessary, since each of the issues discussed by the Examiner has been discussed above in Applicants' response to the objections and rejections, with the exception of the Examiner's statement on page

28, which is most interesting. The Examiner states:

"Since the present application is a continuation of allowed application Serial No. 08/910,516, new formal drawings are required in response to this Office action".

The Examiner is called upon to cite specific authority for this requirement, especially since no claim has been allowed in the instant application. What does the allowance of the parent application have to do with formal drawings for the instant application? It is submitted that this statement is clearly improper and the requirement should be withdrawn.

Conclusion

A Petition to the Commissioner requesting a review of the Examiner's objections to the declaration, specification and drawings, as well as the two separate requirements for submittal of formal drawings, was filed on November 4, 1998. It is submitted that in view of the enclosed copy of the Declaration in parent application S.N. 08/91,516, the amendments to the specification and claims, and the foregoing comments, each of the objections and rejections have been overcome. Further, the previously proposed drawing corrections should be entered. New Claims 43-48 have been added in view of the lack of prior art teachings. Thus, it is submitted that this

application is in condition for allowance based on Claims 1-5, 7, 10-12, 14, 24-28, and 30-48, and an early notice of such is solicited.

Date: 1-5-99

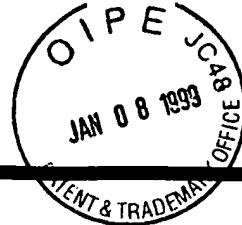
Respectfully submitted,



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Tel. No. (801) 731-5304

Enclosures:

Copy of Declaration in S.N. 08/910,516
Copy of pages of "Guide for the Preparation of Patent Drawings"
Brochure "Work & Play with Hide-N-Side"



Guide for the Preparation of Patent Drawings



U.S. DEPARTMENT OF COMMERCE

Ronald H. Brown
Secretary



PATENT AND TRADEMARK OFFICE

Bruce A. Lehman
Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks



October 1993

forth in § 1.71(e) is included at the beginning (preferably as the first paragraph) of the specification.

Examples are provided in Appendix 4.

(t) Numbering of sheets of drawings. The sheets of drawings should be numbered in consecutive Arabic numerals, starting with 1, within the sight as defined in paragraph (g) of this section. These numbers, if present, must be placed in the middle of the top of the sheet, but not in the margin. The numbers can be placed on the right-hand side if the drawing extends too close to the middle of the top edge of the usable surface. The drawing sheet numbering must be clear and larger than the numbers used as reference characters to avoid confusion. The number of each sheet should be shown by two Arabic numerals placed on either side of an oblique line, with the first being the sheet number, and the second being the total number of sheets of drawings, with no other marking.

For example, the numbering at the top of the sheet would indicate that sheet to be the second sheet of a total of six sheets. If the arrangement of the view is rotated as set forth in section (i), the sheet number must remain as set forth in this section (t).

(u) Numbering of views.

(1) The different views must be numbered in consecutive Arabic numerals, starting with 1, independent of the numbering of the sheets and, if possible, in the order in which they appear on the drawing sheet(s). Partial views intended to form one complete view, on one or several sheets, must be identified by the same number followed by a capital letter. View numbers must be preceded by the abbreviation "FIG." Where only a single view is used in an application to illustrate the claimed invention, it must not be numbered and the abbreviation "FIG." must not appear.

(2) Numbers and letters identifying the views must be simple and clear and must not be used in association with brackets, circles, or inverted commas. The view numbers must be larger than the numbers used for reference characters.



Example 10

Example 10 is a **proper** illustration of a graphical form which is used to represent optical aberrations of lenses which may be submitted as drawings. The drawing meets the requirements of

Paragraph (d) Graphic forms in drawings

The drawing also meets the requirements of

Paragraph (a)(1) Black ink.

Paragraph (l) Character of lines, numbers, and letters.

Paragraph (o) Legends.

Paragraph (p) Numbers, letters, and reference characters.

Paragraph (q) Lead lines.

Paragraph (u) Numbering of views.

FIG.7A

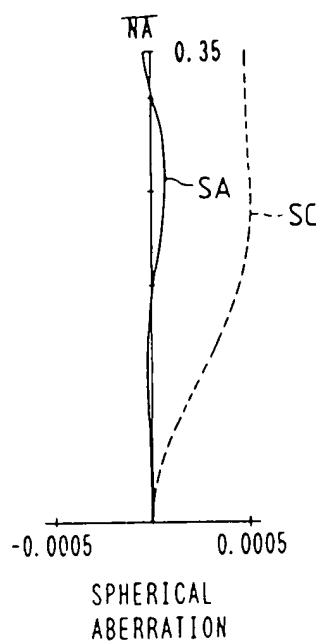


FIG.7B

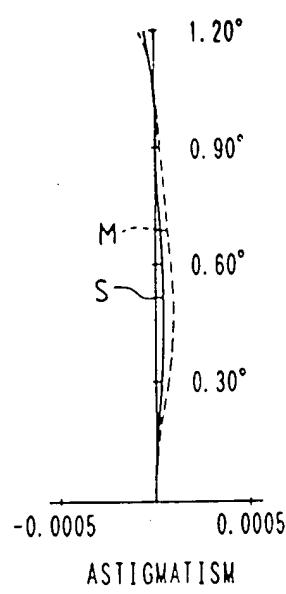


FIG.7C

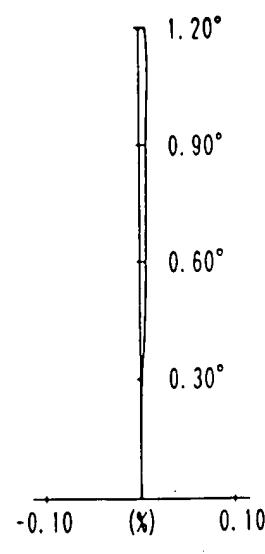


FIG.8A

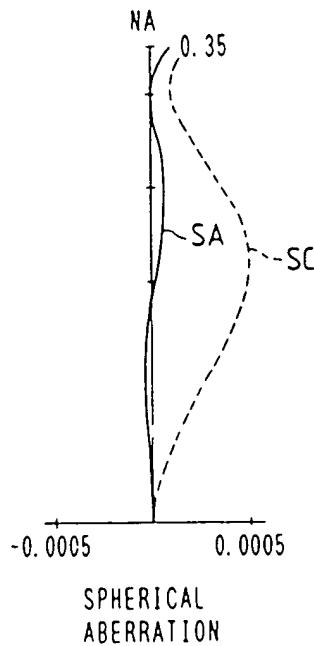


FIG.8B

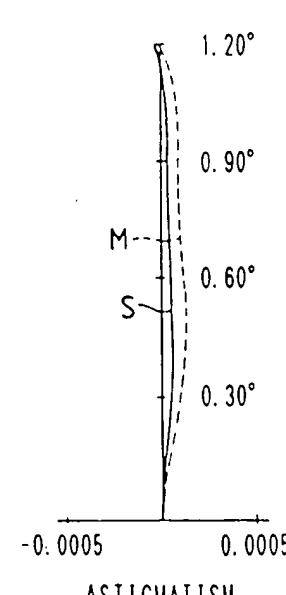
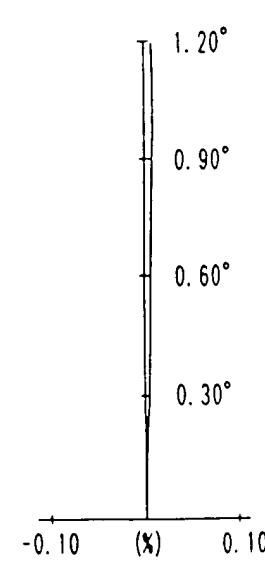


FIG.8C



Example 10 - Proper
Paragraph (d). Graphic forms in drawings.



Example 16

Example 16 is a **proper** illustration of a partial view which includes an enlarged view that may be submitted as a drawing. The drawing meets the requirements of

Paragraph (h)(2) Partial views

Additionally, the drawing meets the requirements of

Paragraph (a)(1)	Black ink.
Paragraph (l)	Character of lines, numbers, and letters.
Paragraph (p)(1)	Numbers, letters, and reference characters.
Paragraph (q)	Lead lines.
Paragraph (r)(1)	Arrows.
Paragraph (u)	Numbering of views.

FIG. 7

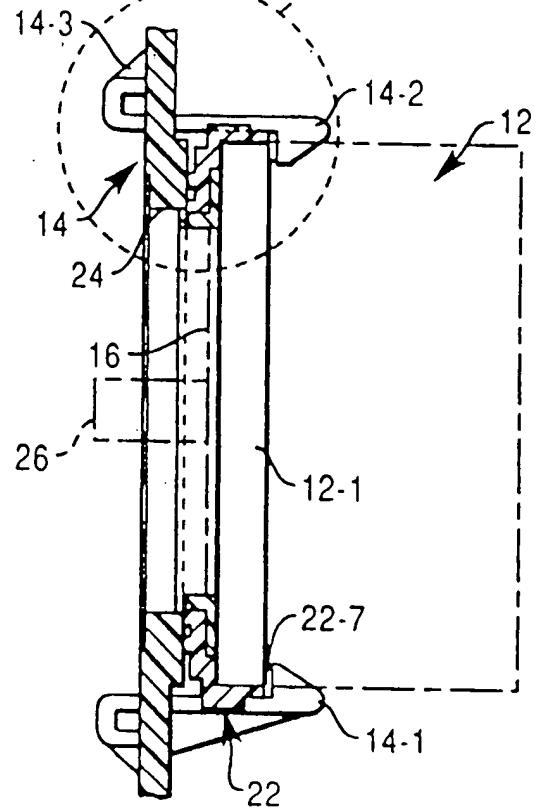
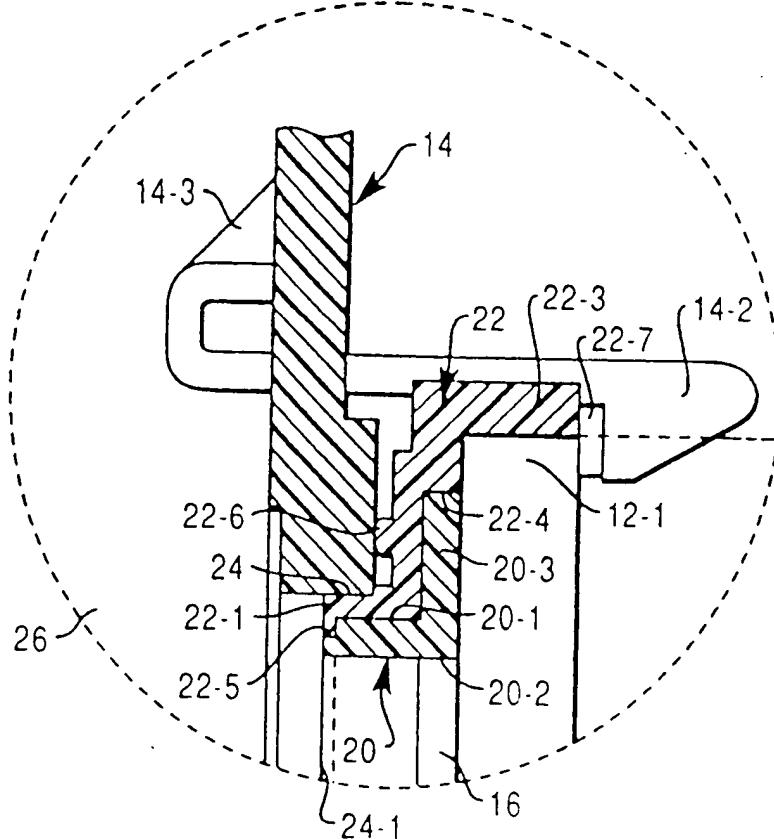


FIG. 8



Example 16 - Proper
Paragraph (h)(2). Partial views.



Example 20

Example 20 is provided as an **improper** illustration of a sectional view, although Fig. 1, which is **proper**, is included to show the difference. Note that the view from which the section is taken is not properly hatched in Fig. 2, at reference numeral 1. The drawing does not meet the requirements of

Paragraph (h)(3) Sectional views

However, the illustration does meet the requirements of

Paragraph (a)(1)	Black ink.
Paragraph (h)	Views, wherein views are clearly separated from one another.
Paragraph (i)	Arrangement of views.
Paragraph (l)	Character of lines, numbers, and letters.
Paragraph (p)(1)	Numbers, letters, and reference characters.
Paragraph (q)	Lead lines.
Paragraph (u)	Numbering of views.

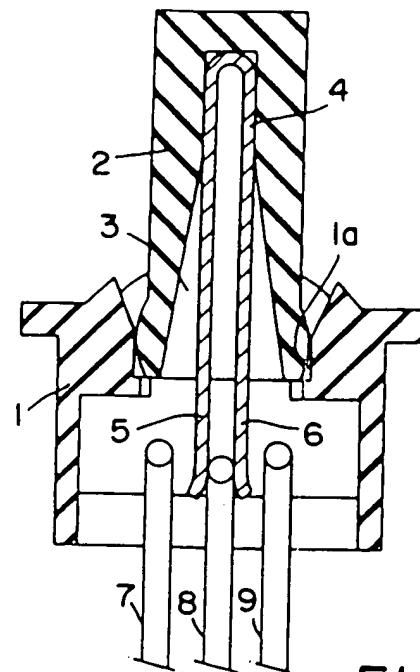


FIG. 1

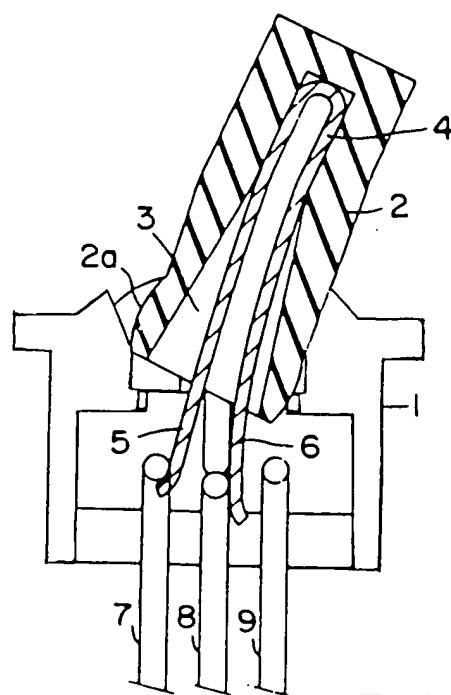


FIG. 2

Example 20 - Improper
Paragraph (h)(3). Sectional views.

A-4-49



Example 24

Example 24 is a **proper** illustration of a drawing which contains modified forms which may be submitted as a drawing. Note that Figs. 2 and 3 show fastening means 52, 53, 62, and 63 in separate figures. If desired, elements 62 and 63 could also be designated as 52' and 53' as modified forms of fastening means. The drawing meets the requirements of

Paragraph (h)(5) Modified forms

Additionally, the drawing meets the requirements of

- Paragraph (a)(1) Black ink.
- Paragraph (h)(3) Sectional views.
- Paragraph (i) Arrangement of views.
- Paragraph (l) Character of lines, numbers, and letters.
- Paragraph (m) Shading.
- Paragraph (p) Numbers, letters, and reference characters.
- Paragraph (q) Lead lines.
- Paragraph (u) Numbering of views.

Another illustration of a modified form is shown at Example 25.

FIG. 2

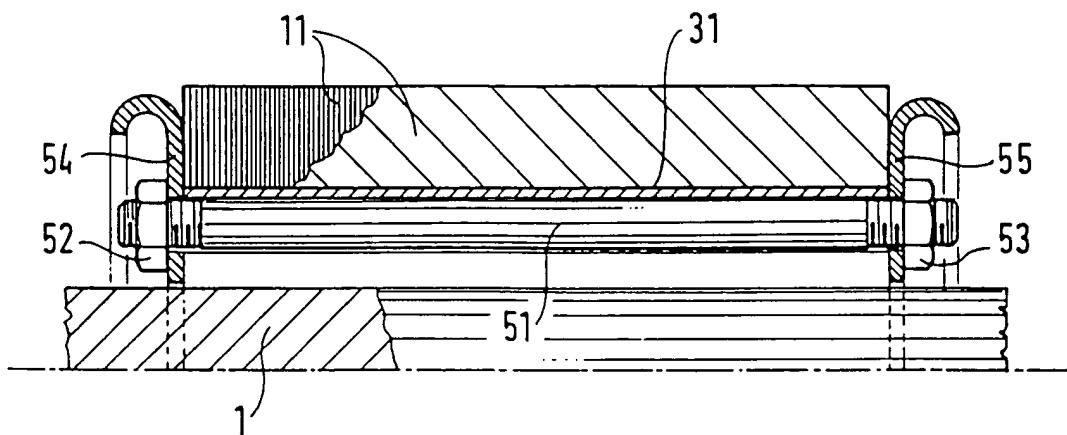
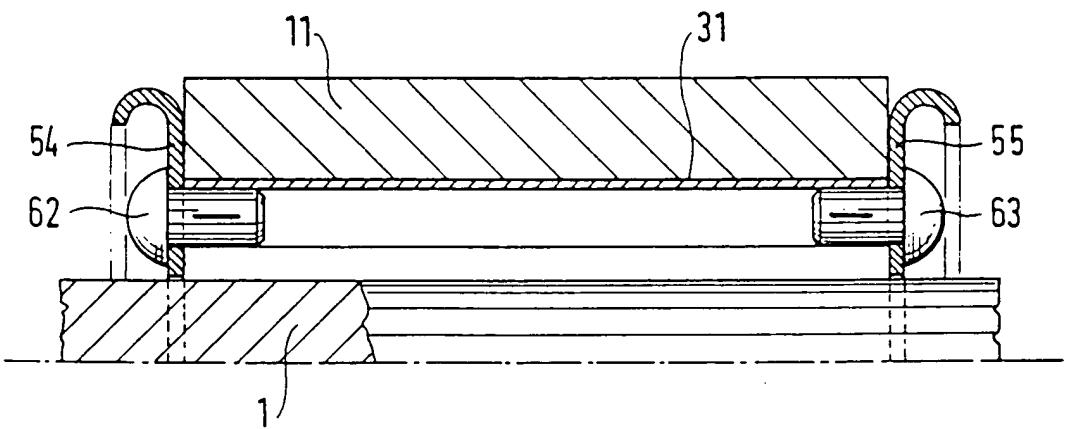


FIG. 3



Example 24 - Proper
Paragraph (h)(5). Modified forms.